

REMARKS

Claims 33-45 remain pending in the present application.

In the outstanding final Office action dated January 3, 2006, claims 33-45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kubo et al. (5,236,447) in view of Lazarus et al. (5,275,622) and Chuter et al. (5,720,776). In rejecting the claims, the Examiner stated that the Kubo et al. reference discloses the invention as claimed except for "particularly disclosing each rings as comprising a plurality of alternating apices." The Examiner then concluded that the structure disclosed in Kubo et al. could be modified to include the teachings of Lazarus et al. and Chuter et al. because bifurcated grafts comprising rings having a plurality of alternating apices were "already known in the art" and it would have been "obvious to a person having ordinary skill in the art at the time the invention was made to have combined the teachings of a bifurcated graft comprising rings having a plurality of alternating apices...in order to improve and/or reinforce the mechanical attachment of the bifurcated graft to a vessel wall."

It is respectfully submitted, however, that there is a lack of motivation or suggestion in the Kubo et al. reference to modify its disclosed structure in view of the teachings of the Lazarus et al. and Chuter et al. references as proffered by the Examiner. Further, it is respectfully submitted that the Kubo et al. reference actually teaches away from incorporating rings having a plurality of alternating apices to "improve and/or reinforce the mechanical attachment" of a graft to a vessel wall.

Significantly, the Kubo et al. patent is concerned with providing an artificial tubular internal organ having high resistance to deformation and good air tightness as well as being capable of being incorporated into tissue after implantation to provide good adhesion with surrounding tissues (Col. 2, ln. 47 et seq.). To accomplish fixing the disclosed implanted artificial tubular organ in a body after implantation, the combined use of absorbable and non-

absorbable yarns is incorporated into the Kubo et al. device so that when the absorbable yarns are dissolved and absorbed into the body, pores are formed between the remaining non-absorbable yarns into which granulation tissues surrounding the artificial tubular organs enter thereby closing the openings of the fabric (Col. 6, ln. 8 et seq.). The Kubo et al. reference further states that the connecting portions (3) are arranged to "prevent supporting frame from excess expansion in the axial direction, as well as prevent aberration of the ring portions, thus making it possible to improve the resistance to deformation" (Col. 4, ln. 14 et seq.). Accordingly, there is no suggestion in Kubo et al. that any problem would be addressed by incorporating into the disclosed structure rings having a plurality of alternating apices and in fact, the Kubo et al. reference contemplates a supporting frame having a configuration which would not suffer from excess expansion and which is resistant to deformation.

It is significant to the present application that MPEP 2145 states that there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine referenced teachings. It is additionally to be noted that MPEP 2143.01 states that "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination" and that "A statement that modifications of the prior art to meet the claimed invention would have been 'well within the ordinary skill of the art at the time the claimed invention was made' because references relied upon teach all of the aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references." Further, the MPEP states that "The level of skill in the art cannot be relied upon to provide the suggestion to combine the references."

In the present situation, it is respectfully submitted that the Examiner has impermissibly relied upon the level of skill in the art to provide the suggestion to modify the Kubo et al. reference to include rings having a plurality of alternating apices. Clearly, there is no acknowledgement in the Kubo et al. reference that a problem exists or one would be solved by incorporating rings with a plurality of alternating apices into the disclosed device. Moreover, in any event, the Kubo et al. reference is concerned with providing a device with improved resistance to deformation and thus, incorporating rings with alternating apices especially apices comprising a helical coil as suggested by the Examiner, would be contrary to the import of the Kubo et al. reference. Finally, it is respectfully submitted that the Examiner has not provided sufficient evidence to support a conclusion that rings with alternating apices would "improve and/or reinforce the mechanical attachment" of the Kubo et al. device within a body organ.

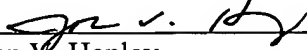
Accordingly, it is respectfully submitted that each of pending claims 33-45 are allowable over the cited references.

CONCLUSION

Applicants have attempted to completely respond to the rejections set forth in the outstanding Office action. In view of the above remarks, Applicants respectfully request that the application be reconsidered, the claims allowed and the application passed to issue.

Respectfully submitted,

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